IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 13075 of 2007(F)

PETITIONER:
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1. K.JANARDHANAN, `SREE HARI',
KANDALLUR SOUTH P.O., KANDALLUR,
ALAPPUZHA DISTRICT.

2. P.DASAN, S/O.KODIYAN,
LAKSHMIYIL, KANDALLUR SOUTH P.O.,
ALAPPUZHA DISTRICT.

BY ADV. SRI.S.KRISHNAMOORTHY

RESPONDENTS:
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1. DISTRICT COLLECTOR, CHAIRMAN OF
SINGLE BENCH OF CLEARANCE BOARD, GREEN CHANNEL
COMMITTEE, ALAPPUZHA.

2. DISTRICT MEDICAL OFFICER,
O/O. D.M.O., ALAPPUZHA.

3. POLLUTION CONTROL BOARD REP. BY
EXECUTIVE ENGINEER, O/O. POLLUTION CONTROL BOARD,
NEAR COLLECTORATE, ALAPPUZHA.

4. KANDALLUR GRAMA PANCHAYAT,
REP. BY ITS SECRETARY, KANDALLUR GRAMA
PANCHAYATH, KANDALLUR P.O., ALAPPUZHA DISTRICT.

5. R.ANIL, S/O.RAJAPPAN,
KODAMPALLIL HOUSE, KANDALLUR SOUTH P.O.,
ALAPPUZHA.

BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN
SRI.K.HARILAL
SRI.R.GOPAN
SMT.K.K.THULASY BHAI,SC,POLLUTION C.BOA
GOVT. PLEADER SRI.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE PETITION PREFERRED BY THE LOCAL RESIDENTS SUBMITTED BEFORE THE R.D.O.**
EXT.P2	**TRUE COPY OF THE COMPLAINT OF THE FIRST PETITIONER SUBMITTED BEFORE R1**
EXT.P3	**TRUE COPY OF THE COMPLAINT OF FIRST PETITIONER DTD. 15-1-07 BEFORE THE D.M.O., ALAPPUZHA**
EXT.P4	**TRUE COPY OF THE COMPLAINT DTD. 15-1-07 OF THE FIRST PETITIONER BEFORE R3**
EXT.P5	**TRUE COPY OF THE COMPLAINT PREFERRED BY THE FIRST PETITIONER SUBMITTED BEFORE R4**
EXT.P6	**TRUE COPY OF THE CONSENT LETTER OF THE SECOND PETITIONER.**
EXT.P7	**TRUE COPY OF THE MINUTES OF THE PANCHAYAT COMMITTEE**
EXT.P8	**TRUE COPY OF THE LETTER DTD. 22-3-07 ISSUED BY R4**

RESPONDENT'S EXHIBITS

EXT.R5(A)	**TRUE COPY OF TAX RECEIPT DTD. 11-5-07**
EXT.R5(B)	**TRUE COPY OF LETTER DTD. 11-5-07 ISUED BY THE SECRETARY OF R4**
EXT.R5(C)	**TRUE COPY OF RECEIPT SHOWING REMITTANCE OF FEE FOR INSTALLATION OF MOTOR**
EXT.R5(D)	**TRUE COPY OF CONSENT DTD. 7-4-07 ISSUED BY R3**
EXT.R5(E)	**TRUE COPY OF CERTIFICATE ISSUD BY COIR BOARD**
EXT.R5(F)	**TRUE COPY OF CERTIFICATE ISSUED BY KSEB**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

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W.P.(C).No.13075 of 2007

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Dated this the 27th day of June, 2007

JUDGMENT

Case of the petitioners in brief is as follows:

Petitioners are residents of Ward No.5 of Kandallur Grama Panchayat. 5th Respondent is alleged to have erected one Coir Fibre separating machine and Coir manufacturing machine using 10 H.P. Electric Motor. The electricity authority has given electrical connection without obtaining any clearance from the Pollution Control Board. The machines were installed for that purpose. The dust emanating from the said machines is creating pollution and using 10 H.P. machine is resulting in noise pollution also. Machines were installed without obtaining permission under Sec. 233. Local residents objected to the said action, but the machines were installed and trial run of the same was started. It is stated to be in violation of the statutory provision.

2. Petitioner approached this court seeking direction to stop immediately the process of manufacturing Coir Fibire and

Coir products by the 5th respondent in Sy.No.536/1-A of Kandallur Panchayat and a direction is sought to the fourth respondent not to grant any licence for conducting a Coir manufacturing Unit, using 10 H.P. Motor, and also for installing Willoing Machine under Section 233. A direction is also sought to respondents 1 to 3 to take appropriate action against the 5th respondent in starting the Coir Manufacturing unit.

3. Counter affidavit is filed by the fifth respondent. Fifth respondent has produced Exts.R5(a) to R5(f). Ext.R5(a) is produced to show that 5th respondent has constructed a building for Coir spolling. Ext.R5(b) is the letter issued by the fourth respondent granting permission to the fifth respondent for installation of 10 H.P. Motor. Ext.R5(C) is the receipt showing payment of fee for installation of 10H.P. Motor. Ext.R5(d) is the copy of the consent issued by the Pollution Control Board. According to the fifth respondent, R5(d) is valid upto 30-06-2009. Ext.R5(e) is the certificate issued by the Coir Board certifying that the materials used in the manufacturing process undertaken by the fifth respondent does not create pollution. Electricity Board has allocated power as evident from

Ext.R5(f), it is stated. It is the case of the 5th respondent that the process of ginning does not require water. It is also stated that fibres are not stored in the unit and are distributed to the sites of spinning and therefore there does not arise any question of smelling or dust.

4. I heard learned counsel for the petitioner, Panchayat, fifth respondent and the learned Government Pleader also.

5. It is not in dispute that the 5th respondent has yet to obtain licence to run the unit from the Panchayat. It is clear that without obtaining licence from the local authority, 5th respondent cannot run the unit. According to the 5th respondent, he has already applied for licence and that is being considered by the Panchayat and what is done is only a trial run. The writ petition is disposed of as follows:

In case the fifth respondent runs the unit without obtaining licnece from the Panchayat as required, the fourth respondent Panchayat will use the provisions at its disposal to stop it and prevent the running. In other words, without obtaining licence from the Panchayat, 5th respondent shall not be permitted to run the unit. It is made clear that this judgment will not stand in the

way of the 4th respondent Panchayat taking a decision on the application of the 5th respondent for licence in accordance with law.

(K.M.JOSEPH, JUDGE)

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